IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24987 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LUHAR ABIDHUSSAIN AHMEDHUSSAIN - Petitioner(s)
Versus
TORRENT POWER (AEC) CO.LTD. & 2 - Respondent(s)

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Appearance :
MR SAMIR B BUNDELA for Petitioner(s) : 1,
NOTICE NOT RECD BACK for Respondent(s) : 1 - 3.
NOTICE SERVED BY DS for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 10/01/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule. The endorsement on the board indicates that the respondents are duly served with notice for final disposal of the petition. However,none of them has appeared either through its lawyer or through its constituted agent nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition upon the respondents. Having regard to the facts of the case, the petition is heard today.

2. By filing the instant petition under Article 226 of the Constitution, the petitioner i.e. Luhar Abidhussain Ahmedhussain has prayed to issue appropriate writ directing the respondent No.1 i.e. Torrent Power AEC Limited to provide electricity connections to Shop Nos.29 and 30 belonging to the petitioner, which are situated in Badar Commercial Complex, Near Sangam Cinema, Makarba, Ahmedabad.

3. Revenue Survey No.83 forming part of Development Plan of village Makarba, Taluka, City and District Ahmedabad belonged to Sattarbhai Jamalbhai and others. The owners of the land were desirous of developing the same. Therefore, they through their constituted Power of Attorney Holder applied to the Ahmedabad Urban Development Authority for grant of development permission. Accordingly the development permission was granted on July 10, 2003, which is quite evident from the contents of the document produced by the petitioner at Annexure “A” to the petition. Pursuant to the development permission granted by the competent authority, the Power of Attorney Holder of Sattarbhai Jamalbhai and others has constructed 44 non-residential units. The case of the petitioner is that he purchased 2 shops, namely, Shop Nos.29 and 30 situated in Badar Commercial Complex, Near Sangam Cinema, Makarba, Ahmedabad from Sattarbhai Jamalbhai and others. In support of this averment, the petitioner has produced necessary extracts from the Register maintained in the office of Sub-Registrar, Ahmedabad (Paladi) at Annexure “B” to the petition. The case of the petitioner is that after purchase of the shops he applied to the

respondent No.1 for grant of electricity connection to the shops purchased by him but the same has been turned down by the respondent No.1 as the petitioner could not produce Building Use Permission. In support of this averment, the petitioner has produced communication dated November 28,2006 addressed by the General Manager of the respondent No.1 to the petitioner at Annexure “D” to the petition. By the said communication the petitioner has been called upon to produce Building Use Permission to enable the respondent No.1 to grant supply of electricity connection to the shops purchased by the petitioner. Therefore, the petitioner has filed the instant petition and claimed reliefs, to which reference is made earlier.

4. This petition was placed for admission hearing before the Court on December 5,2006 and after hearing the learned counsel for the petitioner, the notice for final disposal of the petition was issued. As observed earlier, all the respondents are duly served but none of them has appeared before the Court nor contested the petition.

5. This Court has heard Mr.Samir B.Bundela, learned

advocate for the petitioner and considered the documents forming part of the petition. On the facts and in the circumstances of the case, this Court is of the opinion that interest of justice would be served if following directions are issued :-

(1) The petitioner shall approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today, with an appropriate application /form/format, and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1 – Torrent Power AEC Limited for providing electricity connection to the non-residential units purchased by the petitioner, with an appropriate application/form/format, and by paying charges, within a week from today.

(4) The respondent No.1-Torrent Power AEC

Limited is directed to provide electricity connection to the non-residential units purchased by the petitioner within one month from the date of receipt of the application on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform Torrent Power AEC Limited to disconnect the electricity supply from the non-residential units purchased by the petitioner, and in such eventuality, it would be open to Torrent Power AEC Limited to disconnect the electricity connection.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to the non-residential units purchased by the petitioner within a period of fifteen days.

(7) The petitioner shall file an undertaking

before the Torrent Power AEC Limited to the effect that in the event Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply made available to the non-residential units purchased by the petitioner. This undertaking shall be filed along with the application /form/format meant for the purpose.

6. Rule is made absolute subject to above referred to directions. There shall be no orders as to costs. Direct Service is permitted.

(J.M.Panchal,J)

(Smt.Abhilasha Kumari,J)

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